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July 15, 2003

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Fax: 703-305-7687

Please forward to:

Examiner Joseph Valenza
Art Unit 3651

RE:

In re Application of: WOODS

EXAMINER: Valenza, Joseph E.

Filed: 10/15/2001

Group Art Unit: 3651

Serial Number: 09/978,338 ✓

For: Self Propelled Backfilling Apparatus

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CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being
faxed to:

Examiner Joseph Valenza
Art Unit 3651 Fax: 703-305-7687
Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on July 14, 2003


DOMINICK HARMS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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For: Self Propelled Backfilling Apparatus

Hon. Commissioner of Patents
and Trademarks
Washington, D.C. 20231

EXTENSION

Please extend the time for response for one month to
07/31/03 in the above referenced application. Please charge
Deposit Account 07-1338 for the one month fee. Should additional
fees be required, for this, or additionally required extensions,
or for any other reason, to examine or to maintain the active
status of this application, please charge Deposit Account
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REMARKS

In a telephone conversation with the Examiner, Applicant noted to the Examiner that in the prior filed Election document, filed in March, Applicant had noted that Figure 3 was simply a side view of figures 1 and 6 and claims 1-21 were all clearly within the scope of the application with the drawing of figure 3 being an integral part of all embodiments of the invention when combined with figures 1 and 6.

It was also discussed that the drawings were simplified in nature to convey to those skilled in the art, the construction and operation of the disclosed device and that figure 3 was a simplified side view showing the operation of the hopper to change the center of gravity of the vehicle of all embodiments.

Further, in the telephone discussion with the Examiner it was discussed that while the drawings were simplified for ease of viewing, the specification clearly notes that the means to adjust the center of gravity of the device, was the best mode of the device (page 22 line 14-22). Specifically regarding the embodiments of figure 6, (page 25 lines 11-22) the device calls for the use of the vehicle mounted hopper 12, which itself is adjustable to change the center of gravity of the vehicle, along with the conveyer belts 21 being translatable.

Consequently, as noted in Applicant's first response, the element of the means to alter the center of gravity of the vehicle, claimed in claims 3, 4, 9, and 10, and dependant claims thereto, by tilting the hopper, is thus shown in the drawings and

described in the specification as being the best mode of the device and to be combined with the other drawing figures, and should be included in the examined claims by the Examiner.

As such, claims 3, 4, 5, 6, 9, 10, 11, 12, 15, 17, 18, and 21 (renumbered from 22 by the Examiner), which contain this element, are surely within the scope of the invention described in the specification and shown in the drawings. These claims should be included in the examination.

In that Applicant pointed the inclusion of figure 3 into the drawings of 1 and 6 in the prior response, prior to the Examiner's initial review, it is respectfully requested the Examiner re-review this application and include these claims as previously requested.

IN THE DRAWINGS

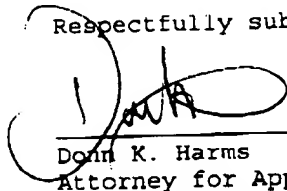
The drawings it was noted were simplified for ease of viewing by those skilled in the art to discern the nature of the invention. However, if the Examiner feels that clarity would be enhanced with the addition of the hydraulic ram to figures 1 and 6, applicant would do so and attaches proposed changes hereto.

FINAL DISCUSSION

Claims 3, 4, 5, 6, 9, 10, 11, 12, 15, 17, 18, and 21 are within the scope of the invention of figures 1 and 6 because of the inclusion in the specification of the inclusion of figure 3's elements with those of figure 1 and 6 as the best mode of the device. The applicant respectfully requests that these claims be examined and included in the application at hand.

Should the Examiner have any other questions or concerns, Applicant's attorney would be happy to discuss it by telephone.

Respectfully submitted



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Date : July 14, 2003

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